

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of
Saidi, Zahir et al.

Application Serial No.: 10/019,100

Filed: August 21, 2003

For: AQUEOUS COMPOSITIONS CONTAINING
CORTICOSTEROIDS FOR NASAL AND
PULMONARY DELIVERY

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: Confirmation No.
: 8648
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: Group Art Unit:
: 1627
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: Examiner:
: Layla Soroush
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VYACHESLAV V. VASILYEV, REG. NO. 58,154

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO THE NOTIFICATION OF NON-COMPLIANT APPEAL
BRIEF

Sir:

This communication is in response to the Notification of Non-Compliant
Appeal Brief, issued on February 2, 2010.

REMARKS

On October 10, 2009, Patent Appeal Specialist Cassandra Downs issued Notification of Non-Compliant Appeal Brief, because, *inter alia*, she insisted that the brief did not contain a correct copy of appealed claims as an appendix to the brief (37 CFR § 41.37(c)(1)(viii)). During the phone call with the undersigned, Specialist Downs suggested that the Claim Appendix should list only the claims involved in this Appeal. On November 9, 2009, Appellants submitted the revised brief complying with Specialist Downs's suggestions. The revised brief was found in compliance with formalities and passed on to the Examiner.

On February 2, 2010, the Examiner issued another Notification of Non-Compliant Appeal Brief. According to the Examiner, the reason for non-compliance was that the brief did not contain a correct copy of the appealed claims, and insisted that the claims appendix should specify cancelled and withdrawn claims.

Appellants respectfully note that this inconsistency in the positions of Specialist Downs and the Examiner puts Appellants in a Catch-22 situation. This inconsistency was brought to the Examiner's attention during the kindly granted telephonic interview with the undersigned. During that interview, the Examiner suggested that Appellants re-submit the brief filed on November 9, 2009, but replace the claims appendix with the claims appendix submitted with the original brief filed on September 15, 2009.

Appellants thank Examiner Soroush for this suggestion. The revised brief consistent with the Examiner's suggestion is filed with this letter.

CONCLUSION

Appellants respectfully submit that the Brief accompanying this response fully complies with 37 CFR § 41.37(c) and is now in condition to be examined on merits.

However, if such an action cannot be taken at this time, Appellants respectfully request a phone call to the undersigned.

Commissioner is hereby authorized to charge any fees in connection with this appeal, or with any other related matters before the PTO, to the undersigned's Deposit Account No. 50-1943.

Respectfully submitted,

Date: March 2, 2010

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